

103D CONGRESS
1ST SESSION

S. 570

To recognize the unique status of local exchange carriers in providing the public switched network infrastructure and to ensure the broad availability of advanced public switched network infrastructure.

IN THE SENATE OF THE UNITED STATES

MARCH 11 (legislative day, MARCH 3), 1993

Mr. GRASSLEY (for himself, Mr. EXON, Mr. DOLE, Mr. KERRY, Mr. BRYAN, Mr. PRESSLER, Mr. STEVENS, Mr. BURNS, Mr. LOTT, Mr. HATCH, Mr. THURMOND, Mr. SIMON, Mr. KOHL, Mr. BROWN, Mr. PRYOR, Mr. SASSER, Mr. CONRAD, Mr. WOFFORD, Mr. BOND, Mr. JEFFORDS, Mrs. KASSEBAUM, Mr. SMITH, Mr. HARKIN, Mr. D'AMATO, Mr. BINGAMAN, Mr. BUMPERS, Mr. NICKLES, Mr. COCHRAN, Mr. DURENBERGER, Mr. DASCHLE, Mr. MURKOWSKI, Mr. SHELBY, and Mr. RIEGLE) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To recognize the unique status of local exchange carriers in providing the public switched network infrastructure and to ensure the broad availability of advanced public switched network infrastructure.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Local Exchange Infra-
5 structure Modernization Act of 1993”.

1 **SEC. 2. FINDINGS.**

2 The Congress finds that—

3 (1) a ubiquitous high quality public switched
4 network will promote—

5 (A) universal service at reasonable rates;

6 (B) the universal availability of advanced
7 public switched network capabilities and infor-
8 mation services;

9 (C) the public health, safety, national de-
10 fense, education and security and emergency
11 preparedness;

12 (D) the economic development and quality
13 of life by bringing access to advanced public
14 switched network capabilities to the American
15 people regardless of their location;

16 (E) new services and motivate new service
17 providers by providing uniform accessibility and
18 interoperability;

19 (F) the international competitiveness of
20 American industry; and

21 (G) a seamless, nationwide, coordinated
22 and state-of-the-art public switched network
23 that will enhance the quality of life for all
24 Americans;

25 (2) the increasing technological complexity and
26 need for ubiquitous infrastructure capability and

1 interoperability of the public switched network re-
2 quires—

3 (A) sharing of the public switched network
4 infrastructure and functionality between and
5 among local exchange carriers;

6 (B) joint coordinated network planning,
7 design and cooperative implementation among
8 all local exchange carriers; and

9 (C) development of standards for inter-
10 connection between the local exchange carrier
11 public switched network and others by appro-
12 priate standards-setting bodies;

13 (3) the access services provided by the local ex-
14 change carrier public switched network to competi-
15 tive carriers, information service providers and oth-
16 ers, tie these diverse elements into an interoperable
17 national telecommunications network;

18 (4) a ubiquitous, advanced local exchange car-
19 rier public switched network enhances the function
20 and availability of services provided by all carriers
21 and all other persons accessing the local exchange
22 carrier public switched network; and

23 (5) it is in the public interest to promote devel-
24 opment of the public switched network by local ex-
25 change carriers because they—

1 (A) have universal service obligations for
 2 geographically specific serving areas for which
 3 they must construct a ubiquitous infrastructure;

4 (B) provide public switched network serv-
 5 ices that are subject to regulation with respect
 6 to rates, terms and conditions;

7 (C) must provide network access to their
 8 own competitors on nondiscriminatory rates,
 9 terms and conditions; and

10 (D) are suppliers of last resort to cus-
 11 tomers in their serving areas.

12 **SEC. 3. AMENDMENTS TO THE COMMUNICATIONS ACT OF**
 13 **1934.**

14 (a) AMENDMENT TO SECTION 1.—Section 1 of the
 15 Communications Act of 1934 (47 U.S.C. 151) is amended
 16 by designating the existing text as subsection (a), and add-
 17 ing at the end thereof the following new subsection:

18 “(b) The Commission shall exercise its authority so
 19 as to—

20 “(1) preserve and enhance universal service at
 21 reasonable rates;

22 “(2) achieve universal availability of advanced
 23 network capabilities and information services;

24 “(3) assure a seamless nationwide distribution
 25 network through joint networking planning, coordi-

1 nation and service arrangements between and among
2 local exchange carriers;

3 “(4) maintain high standards for quality of ad-
4 vanced network services; and

5 “(5) assure adequate communication for the
6 public health, safety, defense, education, national se-
7 curity and emergency preparedness.”.

8 (b) AMENDMENT TO SECTION 2.—Section 2(b) of the
9 Communications Act of 1934 (47 U.S.C. 152) is amended
10 by deleting “227” and inserting in lieu thereof “229”.

11 (c) AMENDMENT TO SECTION 3.—Section 3 of the
12 Communications Act of 1934 (47 U.S.C. 153) is amended
13 by adding at the end thereof the following new definitions:

14 “(hh) The term ‘local exchange carrier’ means a car-
15 rier which—

16 “(1) is required to provide upon request, under
17 tariff or subject to other government oversight (by
18 the Commission or a State commission), interstate
19 and intrastate access services and telephone ex-
20 change service;

21 “(2) is, or was, a participant in one or more
22 interstate pools established by the Commission, or
23 would have been required to participate in one or
24 more such pools had the carrier been engaged in
25 interstate and intrastate access and telephone ex-

1 change service while such participation was manda-
 2 tory;

3 “(3) is subject to the requirements imposed by
 4 the Commission or a State commission related to the
 5 provision of equal access; and

6 “(4) conforms with the provisions of the North
 7 American Numbering Plan applicable to the assign-
 8 ment of numbering resources for telephone exchange
 9 service, as defined by the Plan’s Administrator.

10 “(ii) The term ‘Modification of Final Judgment’
 11 means the decree entered August 24, 1982, in United
 12 States v. Western Electric, Civil Action No. 82-0192
 13 (United States District Court, District of Columbia).’”.

14 (d) AMENDMENT TO TITLE II.—Title II of the Com-
 15 munications Act of 1934 (47 U.S.C. 201 et seq.) is
 16 amended by adding at the end thereof the following new
 17 sections:

18 **“SEC. 228. NETWORK PLANNING AND STANDARDS.**

19 “The Commission shall, within 180 days following
 20 the date of the enactment of this section, prescribe regula-
 21 tions that require—

22 “(1) joint coordinated network planning, design
 23 and cooperative implementation among all local ex-
 24 change carriers in the provision of public switched
 25 network infrastructure and services; and

1 “(2) development of standards for interconnec-
2 tion between the local exchange carrier public
3 switched network and others by appropriate stand-
4 ard-setting bodies.

5 **“SEC. 229. INFRASTRUCTURE SHARING ARRANGEMENTS**
6 **BETWEEN OR AMONG LOCAL EXCHANGE CAR-**
7 **RIERS.**

8 “(a) Within 180 days following the date of the enact-
9 ment of this section, the Commission shall prescribe regu-
10 lations that require a local exchange carrier to share pub-
11 lic switched network infrastructure and functionality with
12 requesting local exchange carriers lacking economies of
13 scale or scope, as defined in subsection (b).

14 “(b) For the purposes of this section, the term ‘local
15 exchange carrier lacking economies of scale or scope’
16 means any local exchange carrier which serves a geo-
17 graphic area for which it lacks economies of scale or scope
18 for the particular required network functionality.

19 “(c) The regulations governing such sharing between
20 or among local exchange carriers shall—

21 “(1) promote economically efficient decision-
22 making by local exchange carriers;

23 “(2) not require any local exchange carrier to
24 make any decision that is uneconomic or adverse to
25 the public interest;

1 “(3) permit, but not require, joint ownership
2 and operation of public switched network infrastruc-
3 ture and services by or among local exchange car-
4 riers;

5 “(4) limit their applicability to local exchange
6 carriers;

7 “(5) ensure that a local exchange carrier, when
8 sharing any infrastructure or providing any
9 functionality to other local exchange carriers pursu-
10 ant to this section, shall not be deemed a common
11 carrier for hire when acting in this capacity, and
12 such arrangements shall not be deemed common car-
13 rier services by the Commission or by any State
14 commission;

15 “(6) ensure that fair and reasonable terms and
16 conditions for and in connection with the business
17 arrangement described in this section are determined
18 by local exchange carriers in accordance with general
19 guidelines contained in the regulations prescribed
20 pursuant to this section;

21 “(7) establish conditions that promote coopera-
22 tion between local exchange carriers; and

23 “(8) ensure that all regulatory rights and obli-
24 gations for and in connection with the business ar-
25 rangements described in this section shall be deter-

1 mined exclusively in accordance with the regulations
2 prescribed pursuant to this section.

3 “(d) Nothing in this Act shall be construed to enact
4 into law any economic support currently provided to tele-
5 phone exchange service or enact into law any prohibition
6 with regard to new economic support mechanisms for tele-
7 phone exchange service or any service other than telephone
8 exchange service.

9 **“SEC. 230. SIGNALLING.**

10 “Notwithstanding any other law or any restriction or
11 obligation imposed before the date of enactment of this
12 section pursuant to Modification of Final Judgment, no
13 local exchange carrier shall be prohibited from transport-
14 ing or processing signalling and information for another
15 local exchange carrier in adjoining or reasonably proximate
16 serving areas upon request of that local exchange
17 carrier to the same extent that the providing local ex-
18 change carrier is permitted to engage in such activities
19 for itself.

20 **“SEC. 231. INTRASTATE COMMUNICATION.**

21 “Except as provided in section 2, nothing in this Act
22 shall be construed to alter, limit, or supersede the author-
23 ity of any State with respect to the regulation of intrastate
24 communication service.”.

1 **SEC. 4. ANTITRUST IMMUNITY FOR LOCAL EXCHANGE CAR-**
2 **RIERS.**

3 (a) Nothing contained in any Federal or State anti-
4 trust law shall render unlawful any action taken by a local
5 exchange carrier pursuant to sections 228, 229, and 230
6 of the Communications Act of 1934, or any individual or
7 concerted action taken, including but not limited to, lobby-
8 ing before Congress or the Federal Communications Com-
9 mission or communicating by any means with other local
10 exchange carriers, by any local exchange carrier, or its di-
11 rectors, officers, agents, employees, affiliates, subsidiaries,
12 joint ventures, counsel or other persons purporting to act
13 on behalf of such carrier.

14 (b) For purposes of this Act, the following terms are
15 defined to mean:

16 (1) The term “Federal Antitrust Laws” means
17 the Acts known as the Sherman Act (15 U.S.C. 1
18 et seq.), the Clayton Act (15 U.S.C. 12 et seq.), the
19 Robinson-Patman Act (15 U.S.C. 13 et seq.), the
20 Federal Trade Commission Act (15 U.S.C. 41 et
21 seq.), all subsequent amendments of such Acts, and
22 any and all other laws which have been or are here-
23 after enacted to regulate or prevent contracts, com-
24 binations, or conspiracies in restraint of trade or
25 monopolistic practices.

1 (2) The term “State Antitrust Laws” means all
2 laws enacted by States or territories within the Unit-
3 ed States or their political subdivisions which are
4 patterned after the Federal laws known as the Sher-
5 man Act (15 U.S.C. 1 et seq.), the Clayton Act (15
6 U.S.C. 12 et seq.), the Robinson-Patman Act (15
7 U.S.C. 13 et seq.), the Federal Trade Commission
8 Act (15 U.S.C. 41 et seq.), or any subsequent
9 amendments to such Acts, or any other State laws
10 which are not patterned after such Federal Acts or
11 amendments but which are designed to regulate or
12 prevent contracts, combinations, or conspiracies in
13 restraint of trade or monopolistic practices.

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